

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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**JEAN FRESNEL, FOUSSENI CAMARA,  
BOUBICAR DIAWARA, JEAN HILAIRE,  
YOUSSOUF SOUKOUNA, ABDOUL AMINE  
CISSE, KASSAN DOUCORE, SUALIO  
KAMAGATE, LAMBORY SANOGO, JEAN  
MOROSE, DANSOKO DIAGUELY,  
ABOUBACAR DOUMBIA, LESLY PIERRE,  
RAZACK SAMBORE, ABDOULAYE  
COULIBALY and EDUARDO ESPINAL,**

**Plaintiffs,  
- against -**

**UNDERWEST WESTSIDE OPERATING  
CORP., UNDERWEST MANAGEMENT  
CORP., MOSHE WINER, MARTIN TAUB and  
AVI GOLAN,**

**Defendants,**

X

**Civil Action**

**Index No.: 20-CV-10470**

**Jury Trial Demanded**

X

Plaintiffs Jean Fresnel, Fousseni Camara, Boubicar Diawara, Jean Hilaire, Youssouf Soukouna, Abdoul Amine Cisse, Kassan Doucore, Sualio Kamagate, Lambory Sanogo, Jean Morose, Dansoko Diaguely, Aboubacar Doumbia, Lesly Pierre, Razack Sambore, Abdoulaye Coulibaly and Eduardo Espinal (collectively, the “Plaintiffs”), by and through their attorneys, Arenson, Dittmar and Karban, as and for their Complaint against Defendants Underwest Westside Operating Corp. (“Underwest Operating Corp.”), Underwest Management Corp. (“Underwest Management Corp.”) (collectively the “Corporate Defendants”), Moshe Winer (“Winer”), Martin Taub (“Taub”) and Avi Golan (“Golan”), (collectively, together with the Corporate Defendants, “Defendants” upon personal knowledge as to themselves and upon information and belief, allege as follows:

**NATURE OF THE ACTION**

1. This action arises out of Defendants' subjecting Plaintiffs—immigrant car wash workers from West Africa, Haiti and the Dominican Republic—to a hostile work environment on the basis of their race (Black and African), perceived race (Black), color (Black), national origin (Haitian) and age in violation of 42 U.S.C §1981 and the New York City Human Rights Law, N.Y.C. Admin. Code § 8-107.

**JURISDICTION AND VENUE**

2. This Court has subject matter jurisdiction pursuant to 42 U.S.C. § 1981, 28 U.S.C. §§ 1331 and 1337, and supplemental jurisdiction over Plaintiffs' state law claims pursuant to pursuant to 28 U.S.C. § 1337.
3. This Court is empowered to issue declaratory relief under 28 U.S.C. §§ 2201 and 2202.
4. Venue is proper in the Southern District of New York pursuant to 28 U.S.C. § 1331(b), because all or a substantial part of the events or omissions giving rise to the claims occurred in the Borough of Manhattan in the City of New York.

**PARTIES**

5. Plaintiffs are individuals residing in the State of New York who were employees of Defendants.
6. Upon information and belief, Defendant Underwest Operating Corp. is a business incorporated in the State of New York, with its principal place of business at 600 Sylvan Ave. Suite 407, Englewood Cliffs, NJ 07632.
7. Upon information and belief, Defendant Underwest Operating Corp. is owned and operated by Defendants Taub and Winer.

8. Upon information and belief, Defendant Underwest Management Corp. is a New Jersey corporation with a registered agent and office address of Moshe Winer, 600 Sylvan Avenue, Suite #407, Englewood Cliffs, NJ 07632.
9. Upon information and belief, Defendant Underwest Management Corp. is owned and operated by Defendants Taub and Winer.
10. Upon information and belief, Defendants Underwest Operating Corp., Underwest Management Corp., Winer and Taub were, at all relevant times, the owners and operators of the Westside Highway Car Wash, formerly located at 638 W. 46<sup>th</sup> Street, New York, NY 10036.
11. Upon information and belief, Defendant Winer is a resident of the State of New York and at all relevant times was the Chief Executive Officer of Defendant Underwest Operating Corp., a closely-held corporation, as defined by the Business Corporations Law, and the President of Underwest Management Corp.
12. Upon information and belief, Defendant Taub is a resident of the State of New York and at all relevant times was a co-owner of Defendant Underwest Operating Corp. a closely-held corporation, as defined by the Business Corporations Law.
13. Upon information and belief, Defendant Golan is a resident of the State of New Jersey and at all relevant times was the manager and/or general manager of the Westside Highway Car Wash.

#### **STATEMENT OF FACTS**

##### **FACTS COMMON TO ALL PLAINTIFFS**

14. Upon information and belief, for at least the past twenty-five years, Defendants Taub and Winer have employed numerous individuals as car washers, cleaners, driers, detailers, oil

changers, body shop workers, convenience store workers and other occupations related to the business of the servicing and maintenance of automobiles.

15. Over the course of the last twenty-five years, Defendants Taub and Winer have owned and operated at least 9 car washes in New York and New Jersey. Three of these car washes are or have been in New York and 6 are or have been in New Jersey.
16. Upon information and belief, the largest and most prominent of the car washes owned and operated by Taub and Winer was the Westside Highway Car Wash, which was located on the Westside Highway between 46<sup>th</sup> and 47<sup>th</sup> Streets in Manhattan, until it closed in June 2019.
17. Upon information and belief, Defendants Winer and Taub have made the decisions for the Corporate Defendants including decisions regarding hiring, firing, payment of wages, assignment of work, contractual matters, and all other administrative and company policy matters, either directly or through agents.
18. Upon information and belief, Defendants Winer and Taub have actively managed, supervised, and directed the business and operations of the Corporate Defendants either directly or through agents.
19. Upon information and belief, Defendants Winer and Taub have maintained records of the Corporate Defendants, including but not limited to the records concerning the Plaintiffs' employment, either directly or through agents.
20. Defendant Taub has an ownership interest in the Corporate Defendants.
21. Defendant Winer has an ownership interest in the Corporate Defendants.

22. Upon information and belief, all employment applications to the Corporate Defendants were processed or approved by the same corporate office and all major decisions were cleared with Defendants Taub and Winer.
23. Upon information and belief, Taub hired Golan and placed him in the position of manager of the Westside Car Wash.
24. During the relevant period, Taub and Winer visited the Westside Car Wash approximately three times a week. Taub and Winer frequently consulted with and gave instructions to Golan about the operation of the car wash.
25. Upon information and belief, Taub and Winer set policies and made decisions regarding the prices of services at the Westside Car Wash.
26. Upon information and belief, Taub and Winer set policies and made decisions regarding the pay of the employees at the Westside Car Wash, including that of the Plaintiffs.
27. Upon information and belief, Taub and Winer made other decisions regarding the operation of the Westside Car Wash, including but not limited to special deals for regular customers and promotions.
28. Upon information and belief, Taub and Winer made inquiries and decisions concerning the employment of individual employees at the Westside Car Wash.
29. Upon information and belief, Defendants Taub and Winer managed and exercised control over Plaintiffs, either directly or through agents.
30. Upon information and belief, Taub and Winer made the decision to sell the property on the Westside Highway where the Westside Car Wash had been located.
31. Upon information and belief, Taub and Winer made the decision to close the Westside Car Wash.

32. Upon information and belief, in approximately March 2019, Taub and Winer personally met with the employees of the Westside Car Wash, including a number of the Plaintiffs, to inform them that the car wash would be closing.
33. Upon information and belief, on approximately June 2, 2019, Winer met personally with the workers at the Westside Car Wash, including but not limited to a number of the Plaintiffs to inform them that this was the last day the car wash would be open.
34. In sum, Defendants Winer and Taub have exercised complete dominion and control over the Corporate Defendants and the Westside Car Wash.
35. Upon information and belief, Defendants Underwest Operating Corp., Underwest Management Corp., Taub and Winer operate out of a centralized corporate office, previously located at 3220 Arlington Avenue, Suite 3, Bronx, NY 10463 and currently located at 600 Sylvan Avenue, Suite #407, Englewood Cliffs, NJ 07632.
36. Upon information and belief, Defendants Underwest Operating Corp. and Underwest Management Corp. have common officers and employees.
37. Upon information and belief, all decisions concerning the policies and practices of the Corporate Defendants and their employees are made by Taub and Winer, either directly or through agents.
38. The Corporate Defendants were joint employers of Plaintiffs.
39. The Corporate Defendants constitute a single integrated enterprise, majority-owned, operated and controlled by Taub and Winer.
40. Upon information and belief, Underwest Management Corp. managed and controlled Underwest Operating Corp.

41. Upon information and belief, Defendant Golan had the power to hire, fire and/or determine the pay rate for Plaintiffs; supervised and controlled Plaintiffs and their work schedules; and maintained some records of Plaintiffs' employment and pay.
42. Upon information and belief, Defendant Golan made day-to-day operations decisions and personnel decisions for Defendant Underwest Operating Corp.
43. Upon information and belief, Defendant Golan acted directly or indirectly in the interest of the Corporate Defendants.
44. Upon information and belief, Defendants Winer and Taub managed and exercised control over Plaintiffs, either directly or through agents.
45. Defendants failed to maintain or disseminate an anti-discrimination policy to Plaintiffs.
46. Defendants failed to maintain or disseminate an anti-harassment policy to Plaintiffs.
47. Defendants failed to maintain or disseminate a complaint procedure to Plaintiffs.
48. Defendants failed to provide any anti-discrimination or anti-harassment training to Plaintiffs.
49. Defendants failed to provide any anti-discrimination or anti-harassment training to its managers, including but not limited to Golan.

**DEFENDANTS CREATE AND FOSTER A HOSTILE WORK ENVIRONMENT**

50. Defendants created, fostered and condoned a hostile work environment on the basis of actual or perceived race (Black and/or African), color (Black), national origin (Haitian) and age that was objectively and subjectively offensive and intimidating.
51. Defendants subjected Plaintiffs to harassment on the basis of their actual or perceived race (Black and/or African), color (Black), national origin (Haitian) and age that was severe and pervasive.

52. Without limitation, the hostile work environment included the following conduct and comments.

**PLAINTIFF JEAN FRESNEL**

53. Plaintiff Jean Fresnel (“Fresnel”) was born in Haiti on May 17, 1952. He is Black.
54. Fresnel started working for Taub and Winer in 1988, at a car wash located at 797 Pennsylvania Avenue in Brooklyn, New York. At that time, Taub and Winer paid Fresnel \$3.00 per hour for 12-hour shifts, which he typically worked six days a week.
55. By 2013, Fresnel was working for another car wash in Brooklyn known as Plaza Car Wash, also owned and operated by Taub and Winer.
56. When Taub and Winer closed the Plaza Car Wash, Fresnel was transferred to the Westside Car Wash.
57. Fresnel worked at the Westside Car Wash from approximately March 2013 through approximately March 2019.
58. At all relevant times, Golan was Fresnel’s manager at the Westside Car Wash.
59. Beginning in approximately March 2013 and continuing through approximately March 2018, Fresnel heard Golan make racially offensive comments on a regular basis.
60. Approximately four times a week, from approximately March 2013 through approximately March 2018, Fresnel heard Manager Golan say: “Fucking Black people,” “Fucking Blacks,” and “Fucking Black Guy.”
61. Approximately four times a week, from approximately March 2013 through approximately March 2018, Fresnel heard Manager Golan say: “Fucking Black African Guy,” and “Fucking African people, Fucking Lazy.”
62. In approximately 2014, Golan called Fresnel “Fucking Haitian.”

63. On another occasion, Golan called Fresnel “Fucking Black.”
64. On many occasions, Fresnel heard Golan say “Fucking Haitians” in reference to other Haitian workers at the car wash.
65. Fresnel saw that Manager Golan did not want Black people to touch him. He witnessed a Black customer put his hand on Golan’s shoulder to show Golan the problem he was having with his car. Fresnel saw Golan step away from the customer and say to him, “Don’t touch me.” Fresnel saw Golan wipe off the area on his shoulder with his hand where the Black customer had touched him. Fresnel never saw Golan do this with a White customer.
66. As set forth more fully below, in approximately 2014 Fresnel complained to the owners, Taub and Winer, that Golan was a racist who made discriminatory comments and mistreated the workers. Taub denied this, and Golan continued his racial harassment of Black and African workers even after Fresnel complained to Taub and Winer.
67. Fousseni Camara, a worker at the car wash who is from West Africa, told Fresnel that he heard Golan say “Fucking Black Haitian” in reference to Haitian workers at the car wash.
68. Golan called Fresnel: “ Fucking ugly,” Fucking dumb,” and “ Fucking idiot.”
69. When Golan called Fresnel “ Fucking ugly,” Fucking dumb,” and “ Fucking idiot,” Fresnel called his son, Freslin Fresnel, and told him what had happened. Fresnel was crying and he told his son he wanted to leave the job.
70. As set forth more fully below, in approximately May 2018 Fresnel’s son complained to Taub about Golan’s mistreatment of Fresnel.
71. In approximately March 2019, Fresnel arrived at the Westside Car Wash while Taub was telling the workers that the car wash would close in the near future. Taub told Fresnel that

while he did not have an available position for Fresnel at one of the other car washes that he owned, he would speak with his friends to see if they had an opening. Fresnel told Taub that after Taub closed the car wash Fresnel did not want to work for Taub anymore because Taub mistreated the workers. Fresnel told Taub that Manager Golan mistreated him. Fresnel also told Taub that Golan was stealing his commissions.

72. Taub responded by calling Fresnel a liar and telling him that it was only he who did like Golan.
73. Fresnel told Taub: "Ok, if you say that. G-d knows everything and one day you will see that."
74. Taub fired Fresnel on the spot. Taub yelled at Fresnel with anger, saying: "Get out of my place, before I kick your ass, you fucking pussy."
75. Fresnel replied, "Thank you" and started to leave.
76. Winer, who also was present at the car wash, told Fresnel that he should come back to work tomorrow. Fresnel was intimidated by Taub's threats and feared for his physical safety. He told Winer that he could not come back to work because Taub was one of the owners of the car wash and he was afraid of what could happen to him if he returned.
77. After Fresnel left, Jean Hilaire a Haitian worker who had worked for Taub for 35 years, told Taub: "How can you talk to Fresnel like that when he has worked for you for 30 years." Taub walked away.

**PLAINTIFF FOUSSENI CAMARA**

78. Fousseni Camara was born in Mali, West Africa on January 18, 1959. He is Black.

79. Camara started working for Taub, Winer and the Corporate Defendants in July 1998 at the Westside Car Wash. At that time, Taub and Winer paid Camara \$3.00 per hour for 14-hour shifts, which he typically worked six days a week.
80. Camara worked at the Westside Car Wash from approximately July 1998 through approximately June 2, 2019.
81. At all relevant times, Golan was Camara's manager.
82. In approximately 2013, Golan physically assaulted Camara. Golan pushed Camara with force from the back toward the ground. As he did this, Golan yelled at Camara: "Fucking nigger, Fucking African, don't know shit, go home."
83. Golan assaulted Camara at the entrance to the Westside Car Wash's tunnel at West 46<sup>th</sup> Street in Manhattan, where the cars go in to get washed by the machines. As Camara was falling, he feared his hands would get crushed by the chain that pushes the cars through the car wash tunnel. Jean Hilaire, a co-worker, jumped in and caught Camara, preventing him from hitting the ground and saving his hands from being crushed by the chain.
84. A number of customers who witnessed Golan push and yell at Camara objected and told Golan: "Why did you do this? This is not right."
85. Beginning in approximately 2012 and continuing through approximately May 2019, Camara heard Manager Golan make racially offensive comments on a regular basis.
86. Camara heard Golan say: "Fucking Black people" approximately 3 to 4 times a week, from approximately 2012 through approximately March 2018.
87. Camara heard Golan say: "Black people are no good" approximately 3 to 4 times a week, from approximately 2012 through approximately March 2018.

88. Camara heard Golan say: “Fucking Haitian people” approximately 3 to 4 times a week, from approximately 2012 through approximately March 2018.
89. Camara heard Golan say: “Haitian people are no good” approximately 3 to 4 times a week, from approximately 2012 through approximately March 2018.
90. Camara heard Golan say: “You fucking lazy Haitian people” approximately 3 to 4 times a week from approximately 2012 through approximately March 2018.
91. Camara heard Golan say: “Fucking African people” approximately 3 to 4 times a week, from approximately 2012 through approximately March 2018.
92. Camara heard Golan say: “African people are no good” approximately 3 to 4 times a week, from approximately 2012 through approximately March 2018.
93. Camara heard Golan say: “Fucking Stupid African” more than 3 times a week, from approximately 2012 through approximately March 2018.
94. Camara heard Golan say: “Shit African people” more than 3 times a week, from approximately 2012 through approximately March 2018.
95. Camara heard Golan say: “African people smell like shit” more than 3 times a week, from approximately 2012 through approximately March 2018.
96. Camara heard Golan say: “Black people smell like shit” more than 3 times a week, from approximately 2012 through approximately March 2018.
97. Camara heard Golan say: “Black people don’t use deodorant” on many occasions, from approximately 2012 through approximately March 2018.
98. Camara heard Golan say: “You fucking lazy Black people” approximately 3 to 4 times a week from approximately 2012 through approximately March 2018.

99. Camara heard Golan say: “Black people are stupid people” approximately 2 to 3 times a week from approximately 2012 through approximately March 2018.
100. Camara heard Golan say: “Haitian people are stupid people” approximately 2 to 3 times a week from approximately 2012 through approximately March 2018.
101. Camara saw Golan treat Black customers in a degrading manner on many occasions, which was different form the way Golan treated White customers.
102. Camara heard Golan say “Fucking Black people” about Black workers and Black customers.
103. Camara heard Golan say, “I don’t like Black customers.” Camara did not hear Golan say, “I don’t like White customers.”
104. When Black customers complained about the service at the car wash, Golan often said “Fucking Black customers.” When White customers complained about the service at the car wash, Golan did not say “Fucking White customers.”
105. One day, when a Black customer complained about the service he received at the car wash, Golan said: “Why do these fucking Blacks come to the car wash.”
106. When a White customer would complain that his windows were not being cleaned properly, Manger Golan would direct a worker to clean the White customer’s windows again but when a Black customer complained about the same thing, Golan would not direct a worker to clean the Black customer’s windows again.
107. When a Black customer complained, Manager Golan often would not address the complaint or fix the problem. Instead, he would turn his back on the Black customer, walk away and often say; “Fucking Black people.” Camara saw and heard Manager Golan do and say this on many occasions.

108. Camara observed that the number of Black customers who came to the Westside Car Wash decreased after Golan became the manager. Camara once asked a Black customer who stopped coming to the car wash on a regular basis why he had not been there in long time. The customer told Camara it was because Golan was a racist who treated the Black customers badly and that he saw that Golan treated the Black workers much worse than the White workers. Camara told the customer that Golan was a racist.
109. Three or four Black customers told Camara that Golan was a racist who treated them like a dog.
110. Golan's discriminatory and demeaning treatment of Black customers contributed to the hostile work environment on the basis of race (African and Black) and color (Black) to which Camara was subjected.
111. Camara knew that his co-worker, Jean Fresnel, had complained in approximately 2014 to Taub and Winer about Manager Golan being a racist; that Taub denied that Golan was a racist; and that Taub told Fresnel to apologize to Golan for calling him a racist.
112. Camara saw that even after his co-worker had complained to Taub and Winer about Golan being a racist, Golan continued to make racially offensive comments and engage in racially discriminatory conduct on a regular basis.
113. As set forth more fully below, Camara objected to and complained about Golan's racial harassment on a number of occasions, including a complaint made directly to Taub. Even after these objections and complaints, Golan continued to make racially offensive comments and engage in racially discriminatory conduct on a regular basis.

**PLAINTIFF BOUBICAR DIAWARA**

114. Plaintiff Boubicar Diawara was born in Gambia, West Africa on February 1, 1974. He is Black.
115. Diawara started working for Taub and Winer in approximately March 2015 at the Westside Car Wash. At that time, Taub and Winer paid Diawara approximately \$7.25 per hour for 12 to 14-hour shifts, which he typically worked 6 or 7 days a week.
116. Diawara worked at the Westside Car Wash from approximately March 2015 through approximately June 2017.
117. At all relevant times, Golan was Diawara's manager.
118. Beginning in approximately March 2015 and continuing through approximately June 2017, Diawara heard Manager Golan make racially offensive comments on a regular basis.
119. Diawara heard Golan say: "Fucking Blacks" approximately 3 times a week, from approximately March 2015 through approximately June 2017.
120. Diawara heard Manager Golan say: "Fucking Africans" approximately 3 times a week, from approximately March 2015 through approximately June 2017.
121. By way of example only, one day in approximately 2016, when it was raining, Golan told Diawara and a group of African workers: "Fucking Africans go clean the car wash."
122. Diawara heard Manager Golan say: "African people smell like shit" approximately 3 times a week, from approximately March 2015 through approximately June 2017.
123. Diawara heard Manager Golan refer to Blacks as "niggers" approximately 2 times a month, from approximately March 2015 through approximately June 2017.
124. On many occasions, Diawara heard Manager Golan say, in reference to cleaning a dirty and smelly pit: "You fucking Blacks are going to do this dirty job."

125. Diawara saw that Manager Golan assigned an African car wash worker, Abdoul Amine Cisse, the job of cleaning the bathroom almost all the time.
126. Diawara saw Golan kick Abdoul Amine Cisse.
127. When Diawara started to work at the Westside Car Wash, he extended his hand to shake Golan's hand to say hello and Golan would not shake his hand.
128. Diawara saw that Golan would not shake the hands of Black workers but would shake the hands of the light-skinned Hispanic workers.
129. As set forth more fully below, in approximately June 2017 Diawara complained to Taub that Golan was racist. In response, Taub fired Diawara on the spot.

**PLAINTIFF JEAN HILAIRE**

130. Jean Hilaire was born in Haiti on July 26, 1960. He is Black.
131. Hilaire started working for Taub and Winer on December 18, 1984, at a car wash located at 797 Pennsylvania Avenue in Brooklyn, New York. At that time Taub and Winer paid Hilaire \$2.25 per hour for 15-hour shifts, which he typically worked six days a week.
132. In approximately 2004, Taub and Winer transferred Hilaire to the Westside Car Wash.
133. Hilaire worked at the Westside Car Wash from approximately 2004 through approximately June 2, 2019.
134. Beginning in approximately 2010 and continuing through approximately March 2018, Hilaire heard Manager Golan make racially offensive comments.
135. During this period, Hilaire also saw Golan engage in discriminatory practices.
136. In approximately 2010, when Hilaire passed in front of Golan to get a new towel, Hilaire heard Golan say, "Fucking lazy damn Africans."

137. In approximately 2011, Golan pushed Hilaire on the chest with force and cursed at him, causing him to cry. A customer who witnessed Golan push Hilaire told Hilaire to “call the cops” and said, “I’ll be your witness, I’ll be your witness.” Hilaire did not call the police.
138. Instead, Hilaire called Winer and complained about Golan pushing him on his chest with force and cursing at him. Hilaire also complained to Taub about Golan pushing him. Golan told Hilaire that he should not have called Winer.
139. Golan told Hilaire that if he ever called Winer again, he would fire him.
140. Hilaire heard Golan say, “Fucking nigger” approximately 4 times a week in reference to Black workers, from approximately 2012 through approximately March 2018.
141. One on occasion in approximately 2012, after Hilaire fixed the molding on the car of a Black customer, Golan got into an argument with this customer and, as the customer was leaving the car wash, said “Fucking Black people” in front of Hilaire.
142. During the times that Hilaire did mechanic work near the exit of the car wash, he heard Golan say: “Fucking nigger don’t know shit” in reference to Black workers.
143. One day in approximately 2013, Hilaire witnessed Manager Golan physically abuse an African worker. Fousseni Camara was using the spray gun to clean a car at the entrance to the tunnel where cars enter to get washed by machines. Golan grabbed the spray gun from Camara and pushed him down toward the ground. Hilaire jumped in to catch Camara and prevented him from falling to the ground. Had Hilaire not caught Camara, the chain that pushes the car through the tunnel would have crushed Camara’s hand. As Golan pushed Camara, Hilaire heard him say: “Fucking nigger, fucking African, don’t know shit, go home.”

144. Upon seeing and hearing this, Hilaire asked Golan: “Why did you push him”? Golan responded: “Mind your fucking business. If you don’t like it, you can go home too.”
145. Hilaire saw Camara leave to change his clothes and go home. Hilaire saw that Camara was crying.
146. Hilaire heard Golan say, “I don’t like Fucking African people” on a regular basis, from approximately 2012 through approximately March 2018. At times, Hilaire heard Golan say this approximately 6 times a week.
147. Hilaire heard Golan say, “Fucking lazy African” at least 4 times a week from approximately 2012 through approximately March 2018.
148. Hilaire heard Golan say, “Fucking African people are dirty” at least 4 times a week from approximately 2012 through approximately March 2018.
149. Hilaire heard Golan say, “African people smell like shit” at least 4 times a week from approximately 2012 through approximately March 2018. Hilaire heard Golan say this about many African workers, including but not limited to Sualio Kamagate and Fousseni Camara.
150. Hilaire heard Golan say “Fucking African people smell” approximately 3 times a week from approximately 2012 through approximately March 2018.
151. Hilaire heard Golan say, “Fucking stupid African” at least 4 times a week from approximately 2012 through approximately March 2018.
152. By way of example only, Hilaire saw Golan pull a towel out the hand of an African worker, Abdoul Amine Cisse, and say to him: “Fucking stupid African guy, go home.”
153. Golan would not shake the hands of Black workers but would shake the hands of the light-skinned Hispanic workers.

154. Manager Golan did not want Black customers to touch him, even in a friendly way.
155. For example, in approximately August 2017, Hilaire saw and heard Golan yell at a Black customer who tried to give him a friendly pat on the back and say, “Don’t touch me, don’t touch me.” This occurred at the entrance to the car wash where the customer would go in to pay. Hilaire saw that the customer was ashamed by Golan’s insistence that he not touch him. After this incident, the customer, who used to come to the car wash regularly, stopped coming to the car wash.
156. Hilaire saw White customers touch and hug Golan. Hilaire never saw or heard Golan say “don’t touch me” to a White customer.
157. Golan would not let Black workers, including Hilaire, drive his car at the car wash. Golan did not let Hilaire drive his car from the tunnel to the exit even on the days when it was Hilaire’s job to drive the customers’ cars from the tunnel to the exit. In contrast, Golan let light-skinned Hispanic workers drive his car from the tunnel to the exit.
158. Manager Golan repeatedly assigned the job of cleaning the bathroom to an African worker, Abdoul Amine Cisse. On one occasion, in approximately January 2019, Golan told Hilaire that the bathroom needed to be cleaned and Hilaire suggested that a Hispanic worker who was standing next to him clean the bathroom. Golan said: “No, put the fucking Black guy. Put Abdoul.” Golan insisted that a Black worker clean the bathroom even though this worker was on the other side of the car wash and Golan’s order required Hilaire to walk from 47<sup>th</sup> to 46<sup>th</sup> Street to convey Golan’s order to Abdoul.
159. In approximately March 2019, Hilaire was standing in front of the entrance to the car wash, and as Golan walked past him, he said: “Have the fucking Black guy clean the bathroom.”

Hilaire shook his head in disapproval. Hilaire then went to Abdoul Amine Cisse and asked him to clean the bathroom.

160. Hilaire saw that a number of Black customers stopped coming to the car wash because of Golan's discriminatory conduct and comments.
161. Golan's discriminatory and demeaning treatment of Black customers contributed to the hostile work environment on the basis of race (African and Black) and color (Black) to which Hilaire was subjected.

**PLAINTIFF YOUSSEOUF SOUKOUNA**

162. Youssouf Soukouna ("Soukouna") was born in Mali, West Africa on March 1, 1963. He is Black.
163. Soukouna started working for Taub and Winer in 1994 at the Kings Plaza car wash in Brooklyn. He was paid approximately \$3.00 per hour and worked approximately 70 to 80 hours a week.
164. In approximately 1996, Soukouna was transferred to another car wash in Brooklyn, owned by Taub and Winer, called Zap Lube and Car Wash. There, he was paid approximately \$3.50 per hour and worked approximately 70 to 80 hours a week.
165. In approximately 1997, Soukouna was transferred to another car wash owned by Taub and Winer in Newark, New Jersey, called Zap Lube and Car Wash. There, he was paid approximately \$3.50 per hour and worked approximately 70 to 80 hours a week.
166. In approximately 2004, Soukouna started working at the Westside Car Wash and continued working there through approximately March 2018.
167. For most of his time at the Westside Car Wash, Soukouna worked shifts of 12 to 14 hours a day, typically six to seven days a week.

168. At all relevant times, Golan was Soukouna's manager.
169. Soukouna heard Golan make racially discriminatory comments against Black, African and Haitian workers on a regular basis.
170. Soukouna observed Golan engage in racially discriminatory conduct toward Black workers and customers.
171. Soukouna heard Golan refer to and call Black, African and Haitian workers "Fucking niggers" at least 3 times a week from approximately 2012 through approximately March 2018.
172. Soukouna heard Golan refer to or call Black customers "Fucking niggers" at least 3 times a week from approximately 2012 through approximately March 2018.
173. Soukouna heard Golan refer to and call Black workers "Black piece of shit" at least 3 times a week from approximately 2012 through approximately March 2018.
174. Soukouna heard Golan refer to or call Black customers "Black piece of shit" at least 3 times a week from approximately 2012 through approximately March 2018.
175. Soukouna heard Golan refer to and call Black workers "fucking Africans" at least 3 times a week from approximately 2012 through approximately March 2018.
176. Soukouna heard Golan say "I don't like Black people" at least 3 times a week from approximately 2012 through approximately March 2018.
177. Soukouna heard Golan say "I don't like African people" at least 3 times a week on from approximately 2012 through approximately March 2018.
178. Soukouna heard Golan say "African people are no good" at least 3 times a week on from approximately 2012 through approximately March 2018.

179. Soukouna heard Golan say “Black people are no good” at least 3 times a week on from approximately 2012 through approximately March 2018.
180. Soukouna heard Golan say “Haitian people are no good” at least 3 times a week on from approximately 2012 through approximately March 2018.
181. Soukouna heard Golan say that Haitian people are “nasty,” “stinky,” or “dirty” at least once a month from approximately 2012 through approximately March 2018.
182. In approximately 2016, a White worker from Paris, France came to work at the Westside Car Wash. Golan told Soukouna that no one should bother this worker because “he is not Haitian and not African.”
183. Soukouna saw Golan brush his shoulder off after a Black customer touched him. Soukouna saw that Golan did not brush his shoulder off after White customers touched him or hugged him.
184. Soukouna saw that Golan assigned an African car wash worker, Abdoul Amine Cisse, the job of cleaning the bathroom almost all the time.
185. After Jean Fresnel complained to Taub and Winer that Golan was racist, Soukouna saw Golan retaliate against Fresnel. Golan told Soukouna that Fresnel had complained to Taub and Winer that Golan was racist. Referring to Fresnel, Golan told Soukouna: “I’m going to fuck him up.”
186. Soukouna saw that Golan removed Fresnel, who at the time was in his sixties and one of the oldest workers at the Westside Car Wash, from his job working on the computer receiving the customer’s requests for specific services and giving the customers their tickets, and assigned him the much more physically demanding job of brushing the cars with a brush.

187. Soukouna heard Fresnel object to Golan's abuse, telling him: "Respect me, I could be your father." Soukouna heard Golan respond to Fresnel: "I don't give a fuck who you are."

**ABDOUL AMINE CISSE**

188. Abdoul Amine Cisse ("Cisse") was born in Mali on January 1, 1981. He is Black.

189. Cisse worked at the Westside Car Wash from approximately the Summer of 2004 to approximately June 2, 2019.

190. For most of the time he worked at the Westside Car Wash he worked shifts of 12 to 14 hours a day, six days a week. When he started, he was paid approximately \$4.50 per hour.

191. At all relevant times, Golan was Cisse's manager.

192. Cisse heard Manager Golan make racially discriminatory comments to him and about other Black and African workers on a regular basis from approximately 2012 through approximately March 2018.

193. Cisse saw Manager Golan engage in racially discriminatory conduct against Black and African workers on a regular basis from approximately 2012 through approximately March 2018.

194. Golan told Cisse: "Abdoul is stupid, go back to Africa, go back to your country," on a regular basis from approximately 2012 through approximately March 2018.

195. Golan told Cisse: "Fucking African, fucking Black, go back to your country," on a regular basis from approximately 2012 through approximately March 2018.

196. Golan told Cisse: "Abdoul is stupid. You know you're stupid."

197. On many occasions from approximately 2012 through approximately March 2018, Golan stood next to Cisse and said, "Fucking Black piece of shit."

198. On many occasions from approximately 2012 through approximately March 2018, Golan stood next to Cisse and said, “Fucking nigger.”
199. On many occasions from approximately 2012 through approximately March 2018, Golan stood next to Cisse and said, “Fucking nigger don’t know shit.”
200. On many occasions from approximately 2012 through approximately March 2018, Golan stood next to Cisse and said: “Africa is dirty.”
201. On many occasions from approximately 2012 through approximately March 2018, Golan stood next to Cisse and said: “Africa is poor.”
202. Cisse heard Golan say “fucking Africans” on many occasions from approximately 2012 through approximately March 2018.
203. Cisse heard Golan say “fucking Blacks” on many occasions from approximately 2012 through approximately March 2018.
204. Golan assigned Cisse the job of cleaning the bathroom at the car wash on a near daily basis.
205. On a number of occasions, Golan physically assaulted Cisse.
206. In approximately 2014, Golan kicked Cisse with force when Cisse was eating lunch.
207. In approximately 2016, Golan called Cisse over to where he [Golan] was standing and told Cisse that Cisse’s pants were very dirty and that Cisse should change his pants. As Cisse walked away to change his pants, Golan kicked Cisse on his buttocks with force. Cisse’s knees buckled from the force of Golan’s kick.
208. In approximately 2017 at approximately 1:30 p.m., near the exit to the car wash at West 47<sup>th</sup> Street, Golan slapped Cisse with force on the back of Cisse’s head in the presence of Taub. Taub said nothing in response to Golan slapping Cisse on the back of his head with force.

209. In approximately 2017, Golan grabbed Cisse by his shirt with force when he was cleaning the bathroom and told him: “Go home.”
210. On approximately two occasions, Golan grabbed the vacuum away from Cisse in a violent manner.
211. Cisse knew that Jean Fresnel had complained to Taub and Winer that Golan was a racist.
212. Cisse saw that even after Fresnel made this complaint, Golan continued to harass him and other Black, African and Haitian workers.

#### **PLAINTIFF KASSAN DOUCORE**

213. Kassan Doucore (“Doucore”) was born in Mali on September 4, 1965. He is Black.
214. Doucore worked at Westside Car Wash from approximately 2011 through approximately June 2, 2019.
215. For most of the time, Doucore worked shifts of 12 to 14 hours, which he typically worked 6 to 7 days a week.
216. At all relevant times, Golan was Doucore’s manager.
217. On many occasions, from approximately 2012 through approximately March 2018, Golan called Doucore “fucking African.”
218. On many occasions, from approximately 2012 through approximately March 2018, Golan called Doucore “fucking Black guy.”
219. On many occasions, from approximately 2012 through approximately March 2018, Golan called Doucore “Fucking Black piece of shit.”
220. By way of example only, one day in approximately December 2016, at approximately 11:30 a.m., Doucore cleaned the pit into which the dirt, chemicals, and water from the car wash would collect. The pit had a strong and foul odor. As a result, the sweater Doucore

wore while he cleaned the pit got very dirty and had a foul odor. Doucore knew he could not interact with customers wearing this dirty and foul-smelling sweater. He also knew that he needed to wear it given the cold weather. Doucore washed his sweater in the laundry machine at the car wash. When Golan saw the sweater in the washing machine, he got angry and asked whose it was. Doucore said it was his and Golan yelled at Doucore for washing his sweater in the washing machine. Then, Golan took a pair of scissors and cut Doucore's sweater into pieces so that Doucore could no longer wear his sweater. Doucore said to Golan: "Why did you cut my sweater?" Golan replied: "I don't give a fuck. Get the fuck out of my face, Black piece of shit."

221. Doucore told another worker at the car wash, Youssouf Soukouna, what Golan did and said. Soukouna asked Golan why he did that, explaining that Doucore had just cleaned the pit and he could not continue working with such a dirty and foul-smelling sweater. Golan told Soukouna: "If he [Doucore] doesn't like it, tell him to get the fuck out of here and don't come back."
222. By way of example only, one day Golan told Doucore to clean the window of one of the cars at the car wash and yelled at Doucore: "You don't know shit, you fucking African."
223. On many occasions, Golan grabbed the towel out of Doucore's hands in a violent manner as he yelled at him: "You don't know shit, you fucking African."
224. On many occasions, from approximately 2012 through approximately March 2018, Golan told Doucore: "I don't like African people, get the fuck out of here."
225. On many occasions, from approximately 2012 through approximately March 2018, Golan told Doucore "I don't like Black people, get the fuck out of here."

226. On many occasions, from approximately 2012 through approximately March 2018, Golan called Doucore “African stupid.”
227. On many occasions, from approximately 2012 through approximately March 2018, Golan called Doucore “lazy African.”
228. Doucore heard Golan say “fucking Africans” on a regular basis from approximately 2012 through approximately March 2018.
229. Doucore heard Golan say “fucking Blacks” on a regular basis from approximately 2012 through approximately March 2018.
230. On many occasions, from approximately 2012 through approximately March 2018, Doucore heard Golan say, “Fucking Black people are no good, I don’t like them.”
231. Golan would touch Doucore as he pleased, but Golan did not permit Doucore to touch him.
232. On many occasions, Golan told Doucore: “Don’t touch me. You stink, Black piece of shit.”
233. Doucore heard Golan tell an African customer: “Don’t come here anymore, fucking African.”
234. Doucore feared complaining about or objecting to Golan. On many occasions, Golan told Doucore: “If you talk, you go home.”
235. On a number of occasions, when Doucore was in Golan’s office and tried to explain or object to something, Golan cut him off and said: “I’m the boss. If you don’t like it, get the fuck out of here before I kick your ass.”
236. On many occasions, Doucore told Youssouf Soukouna about Golan’s discriminatory and abusive treatment of him. Soukouna told Doucore to “leave it alone” because Soukouna feared that Golan would fire Doucore if he complained more about Golan.

237. By way of example only, on at least two occasions Doucore went to Golan's office to complain about not being paid for all the hours he worked. Golan told Doucore to get out of his office. On both occasions, Golan punished Doucore for complaining by giving him harder jobs and sending him home early in the days following his complaints. After getting punished twice after complaining to Golan, Doucore stopped complaining out of fear of further retaliation.

**PLAINTIFF SUALIO KAMAGATE**

238. Plaintiff Sualio Kamagate ("Kamagate") was born in Cote d'Ivoire (the Ivory Coast), West Africa on February 4, 1955. He is Black.

239. Kamagate worked at the Westside Car Wash from approximately 1995 through approximately June 2, 2019. For most of his employment, Kamagate worked 12-hour shifts, which he typically worked six days a week.

240. When he started at Westside Car Wash, Kamagate was paid \$3.00 per hour for over 70 hours a week.

241. At all relevant times, Golan was Kamagate's manager.

242. Golan called Kamagate a "Black piece of shit" at least once a week from approximately 2012 through approximately March 2018. On many occasions, Golan would walk away from Kamagate and say in a loud and angry voice: "Black piece of shit."

243. Kamagate heard Golan say "Black piece of shit" about other Black workers approximately 2 times a week from approximately 2012 through approximately March 2018.

244. Kamagate heard Golan say "Black shit" about other Black workers approximately 2 to 3 times a week from approximately 2012 through approximately March 2018.

245. Golan called Kamagate a “fucking stupid Black” about 2 to 3 times a week from approximately 2012 through approximately March 2018.
246. Kamagate heard Golan say “fucking stupid Black” about others Black workers approximately 2 times a week from approximately 2012 through approximately March 2018.
247. Golan called Kamagate a “fucking Black” approximately 3 times a month from approximately 2012 through approximately March 2018.
248. Kamagate heard Golan say “fucking Black” about others Black workers approximately 2 times a week from approximately 2012 through approximately March 2018.
249. Golan called Kamagate a “fucking African” approximately 3 times a month from approximately 2012 through approximately March 2018.
250. Kamagate heard Golan say “fucking African” about other African workers at least 2 times a week from approximately 2012 through approximately March 2018.
251. Kamagate heard Golan say “African piece of shit” about African workers approximately 2 times a week from approximately 2012 through approximately March 2018.
252. Kamagate heard Golan say “Fuckin stupid African” or “Fuckin African stupid” about African workers approximately 4 times a week from approximately 2012 through approximately March 2018.
253. Kamagate heard Golan say “Fuckin Haitians” approximately twice a month from approximately 2012 through approximately March 2018.
254. A number of Hispanic workers told Kamagate that Golan said that Kamagate was a “Black piece of shit.”
255. A number of Hispanic workers told Kamagate that Golan said “I don’t like Black people.”

256. A number of Hispanic workers told Kamagate that Golan said “I don’t like African people.”
257. Kamagate witnessed Golan treating White customers better than Black customers. For example, when a White customer complained about something, Golan would try to fix it or have a worker redo what had been done to please the White customer. In contrast, when a Black customer complained about something, Golan would often get angry and tell the Black customer: “Don’t come back here anymore.”
258. In approximately 2014, Kamagate heard Golan tell two Black customers who complained: “Don’t come back here anymore.”
259. A number of Black and African customers told Kamagate that they stopped coming to the Westside Car Wash regularly because of the way Golan treated them. They told Kamagate that Golan made them feel that they were not welcome at the car wash.
260. Golan’s discriminatory and demeaning treatment of Black customers contributed to the hostile work environment on the basis of race (African and Black) and color (Black) to which Kamagate was subjected.
261. Kamagate knew that a number of his Black co-workers had complained to the owners about Golan’s racial harassment.
262. In approximately 2014, Kamagate learned that his co-worker, Jean Fresnel, complained to Taub and Winer that Golan was a racist; that Taub told Fresnel that Golan was not a racist; and that Taub told Fresnel to apologize to Golan for saying he was a racist.
263. In approximately 2014, Kamagate learned that his co-worker, Jean Hilaire, complained to Taub that Golan treated the workers very badly; that Taub told Hilaire that he did not want to hear that; and that Taub told Hilaire that Hilaire and Fresnel did not like Golan.

264. In approximately 2016, Kamagate learned that his co-worker, Youssouf Soukouna, objected to Golan making racist comments about Black and African workers; that Soukouna told Golan that he should not make racist comments; and that Golan responded to Soukouna's objection by saying: "I don't give a shit."
265. In approximately March 2017, Kamagate learned that his co-worker, Fousseni Camara, complained to Taub that Golan was a racist; that Taub told Camara that Golan was not a racist; and that Taub told Camara that he should not say that Golan was a racist.
266. In approximately June 2017, Kamagate learned that his co-worker, Boubicar Diawara, complained to Taub that Golan was a racist and that Taub fired Diawara on the spot.
267. Kamagate saw that even after his co-workers complained to the owners about Golan's racism, Golan continued to harass him and other Black and African workers on the basis of their race and color.
268. Kamagate, and other workers, saw that it was pointless and dangerous to complain. They saw that workers who complained to Taub and Winer about Golan being a racist either were fired or retaliated against by Golan.

**PLAINTIFF LAMBORY SANOGO**

269. Plaintiff Lambory Sanogo ("Sanogo") was born in Cote d'Ivoire (the "Ivory Coast"), West Africa on January 1, 1977. He is Black.
270. Sanogo worked at the Westside Car Wash from approximately 2009 through approximately January 16, 2018. When he started, he worked 11-hour and 12-hour shifts, six days a week and was paid approximately \$6 per hour.
271. At all relevant times, Golan was Sanogo's manager.

272. Golan called Sanogo “Stupid African” approximately 2 times a week from approximately 2012 through approximately January 16, 2018.
273. Golan told Sanogo: “Faster, faster fucking African” approximately 2 times a week from approximately 2012 through approximately January 16, 2018.
274. Golan told Sanogo: “Fuckin African, let’s go, let’s go” approximately 2 times a week from approximately 2012 through approximately January 16, 2018.
275. Golan told Sanogo “Africa is no good.”
276. Sanogo heard Golan say “Fuckin Africans” approximately 2 times a week from approximately 2012 through approximately January 16, 2018.
277. Sanogo heard Golan say “Fuckin Blacks” approximately 2 times a week from approximately 2012 through approximately January 16, 2018.
278. Sanogo was afraid he would be fired if he complained about Golan’s discriminatory conduct.
279. Sanogo saw that Golan treated White customers better than the Black customers.
280. For example, in approximately 2017, a Black African man came to the car wash to have the interior of his car shampooed. After this customer had arrived, a White woman came to the car wash, asking for the same service. Golan instructed one of the workers to leave the car of the African customer and to shampoo the car of the White customer first. The African customer objected to the obvious preference being given to the White customer and he and Golan argued. Sanogo heard the African customer say to Golan: “You’re a racist.” Sanogo heard Golan reply: “I don’t care.”

281. Golan's discriminatory and demeaning treatment of Black customers contributed to the hostile work environment on the basis of race (African and Black) and color (Black) to which Sanogo was subjected.

**PLAINTIFF JEAN MOROSE**

282. Plaintiff Jean Morose was born in Haiti on December 7, 1961. He is Black.

283. Morose worked at the Westside Car Wash from approximately 2013 through approximately May 2017. When he started, he often worked 14-hour shifts, six and seven days a week and was paid approximately \$6.40 per hour.

284. At all relevant times, Golan was Morose's manager.

285. By way of example only, one day at approximately 2 p.m. when it was very busy at the car wash Morose was about to start a "VIP" job for a light-skinned, Hispanic customer. A "VIP" job involved the full cleaning of a car, including the trunk, windows, doors, dashboard, cup holders, seats, tires and extra vacuuming. A "VIP" job at the Westside Car Wash gave a worker the chance to receive a better tip directly from the customer, which the worker did not have to share with his co-workers.

286. Upon seeing Morose about to start the "VIP" job, Golan told Morose: "Today there is no VIP for Black people."

287. As Morose started to walk away from the job, he saw that a Black customer heard Golan's comment and looked at Golan in a disapproving manner.

288. At that moment, Golan called Morose back and told him he was just kidding and that he could continue doing the "VIP" job. Morose came back and did the "VIP" job, but felt offended and humiliated by Golan's comment.

289. Morose heard Golan say “Fucking Blacks” approximately twice a week from approximately 2012 through approximately May 2017.
290. Morose heard Golan say, “Fucking Haitians.”
291. On many occasions, Morose’s co-workers told him that Golan said “Fucking Haitians.”
292. Morose heard Golan say, “Fucking Africans.”
293. On many occasions, Morose’s co-workers told him that Golan said “Fucking Africans.”
294. On a regular basis, Morose said “good morning” to Golan and Golan ignored him. One day in approximately 2016, Morose approached Golan and said: “You’re my boss, but you ignore me when I say good morning.” Morose extended his hand to shake Golan’s hand. When he did so, Golan got very angry and yelled at him, saying: “Hey, don’t touch me.”
295. Morose saw Golan shake the hands of White workers and light-skinned Hispanic workers.
296. Morose saw that Golan treated White customers better than Black customers.
297. While working at the Westside Car Wash, Morose knew that his co-worker Jean Fresnel went to the office and complained to the owners, Taub and Winer, that Golan was a racist. Fresnel told him that he made this complaint; that Taub told Fresnel that Golan was not a racist; and that Taub told Fresnel to apologize to Golan for saying he was racist. Fresnel was upset when he told Morose about his complaint to the owners about Golan and about their response.
298. Morose saw that even after Fresnel had complained to the owners that Golan was a racist, there was no change in Golan’s discriminatory conduct and comments against Black, African and Haitian workers.

**PLAINTIFF DANSOKO DIAGUELY**

299. Plaintiff Dansoko Diaguely was born in Mali on January 1, 1964. He is Black.

300. Diaguely worked at the Westside Car Wash from approximately April 2016 through approximately February 2018. Typically, he worked 12-hour shifts six days a week.
301. At all relevant times, Golan was Diaguely's manager.
302. Diaguely heard Manager Golan make discriminatory comments about African and Black workers on a regular basis.
303. Diaguely heard Golan say "Fucking Africans" in reference to the African workers at the Westside Car Wash approximately 2 times a week from approximately April 2016 through approximately February 2018.
304. Diaguely heard Golan say "Fucking African piece of shit" in reference to African workers at the Westside Car Wash approximately 2 times a week from approximately April 2016 through approximately February 2018.
305. Diaguely heard Golan say "Fucking African stupid lazy" in reference to African workers at the Westside Car Wash approximately 2 times a week from approximately April 2016 through approximately February 2018.
306. Diaguely heard Golan say "Fucking African no good" in reference to African workers at the Westside Car Wash approximately 2 times a week from approximately April 2016 through approximately February 2018.
307. In approximately February 2018, on the day Golan fired Diaguely, Golan grabbed Diaguely by his jacket with force, pushed him in anger and said: "Get the fuck out of here. I don't want to see you here anymore."
308. Diaguely never saw Golan grab or push a light-skinned worker.

309. Diaguely saw that Golan would respond to the light-skinned Hispanic workers saying “Good morning” by saying “Buenos Dias” but would ignore the African workers, including Diaguely, when they said “Good morning” to Golan.
310. While working at the Westside Car Wash, Diaguely knew that other workers had complained to Taub that Golan was a racist.
311. Golan also harassed Diaguely on the basis of his age.
312. Dansoko was 52 years old when he started working at the Westside Car Wash and 54 years old when he stopped.
313. Approximately 3 times a week from approximately April 2016 through approximately February 2018, Golan told Diaguely: “Fucking lazy old man, move your ass.”
314. On many occasions, from approximately April 2016 through approximately February 2018, Golan told Diaguely; “Fucking old piece of shit, move your ass.”

**PLAINTIFF ABOUBACAR DOUMBIA**

315. Plaintiff Aboubacar Doumbia was born in Mali, West Africa on December 21, 1987. He is Black.
316. Doumbia worked at the Westside Car Wash from approximately September 17, 2016 through approximately June 4, 2017.
317. At all relevant times, Golan was Doumbia’s manager.
318. Upon starting to work at the Westside Car Wash, Doumbia was told by his African co-workers that Golan was a racist and did not like Black people.
319. Doumbia heard Golan say “Fucking African people” approximately twice a week from approximately September 17, 2016 through approximately June 4, 2017.

320. Doumbia heard Golan say “Fucking African piece of shit” approximately twice a week from approximately September 17, 2016 through approximately June 4, 2017.
321. Doumbia heard Golan say “African people are dirty” approximately twice a week from approximately September 17, 2016 through approximately June 4, 2017.
322. Doumbia heard Golan say “African people smell bad” approximately three times.
323. When Golan wanted an African worker to load something heavy in his car, he would tell the African worker, “African power, put this in my car” or “Black power, put this in my car.”
324. On one occasion, a co-worker told Doumbia to go to over to Golan to do something. When Doumbia went over to Golan, he saw that Golan wanted him lift something heavy. Golan called Doumbia: “Black power.”
325. Doumbia saw that Golan gave non-African and non-Black workers more opportunity to make money at the car wash than Black and African workers. For example, Doumbia saw that Golan would cut the hours of African workers more frequently than the hours of the light-skinned Hispanic workers.
326. Doumbia saw that Golan treated White customers better than Black customers.
327. Among other things, Doumbia saw that Golan shook the hand of White customers but did not shake the hands of Black customers.
328. Doumbia saw that Golan assigned the job of cleaning the bathroom to an African worker named Abdoul Amine Cisse.
329. A number of Doumbia’s co-workers, including Kassan Doucore, told him that Golan said, “Black people are shit,” “Black people are dirty,” “Black people are stupid” and African people are shit” on a regular basis.

330. A number of Doumbia's co-workers told him that if he complained about Golan to the owners of the car wash, Golan would fire him. Doumbia feared being fired if he complained to the owners.

331. While working at the car wash, Doumbia knew that another worker, Jean Fresnel, had complained to the owners that Golan was racist and, despite this complaint, Golan continued to discriminate against African and Black workers.

332. On approximately June 4, 2017, Doumbia stopped working at the Westside Car Wash because of Golan's discriminatory conduct.

**PLAINTIFF LESLY PIERRE**

333. Plaintiff Lesly Pierre was born in Haiti on November 30, 1983. He is Black.

334. Pierre worked at the Westside Car Wash from approximately August 13, 2018 through approximately June 1, 2019.

335. Golan was the general manager of the Westside Car Wash when Pierre worked there.

336. Within the first week of Pierre's employment at Westside Car Wash, Jean Hilaire told Pierre that Golan was a racist, who often referred to Black workers as "fucking Blacks" and "fucking Africans." Hilaire told Pierre that Golan would refer to workers from Haiti as "fucking Haitians."

337. In approximately November 2019, Jean Fresnel told Pierre that Golan did not like Black people.

338. Fresnel told Pierre that he complained to the "bosses"—"Martin and Moshe"—about Golan being a racist; that the owners told him that Golan was not a racist; that Taub told him to apologize to Golan for saying he was a racist; and that Fresnel would not apologize because he was telling the truth about Golan.

339. In approximately March 2019, Pierre was working on the computer near the door to the shop where car-related items were sold when he heard Golan tell Jean Hilaire: “Have the fucking Black guy clean the bathroom.” Cisse was present when Golan gave this order to Hilaire and Pierre understood Golan to be referring to Cisse, because Pierre had seen Cisse clean the bathroom on a daily basis.
340. When Pierre heard Golan make this comment, Pierre approached Hilaire and told him that Golan’s comment was “racist” and that a manager should not be making comments about a worker’s race or color. Hilaire told Pierre: “You’re new here, you don’t know Avi.”
341. Hilaire told Pierre that Golan always called the Black workers “Fucking nigger,” Fucking Black” and “Fucking piece of shit.” Hilaire told Pierre that Golan had been treating the Black workers like that for years. Hilaire told Pierre that Golan was a racist who did not want Black workers to drive his car at the car wash.
342. Later, Hilaire told Pierre that workers had complained to the owners about Golan being a racist and mistreating the workers, and that nothing was done in response to these complaints.
343. Hilaire told Pierre that Jean Fresnel went to the office and complained to the owners, “Martin and Moshe,” about Golan being a racist and that the owners did nothing in response to Jean Fresnel’s complaint.
344. Hilaire told Pierre that “guys get fired” for complaining to the owners about Golan being a racist.
345. Hilaire told Pierre that Fousseni Camara complained to the owners that Golan was a racist and the owners did nothing in response to this complaint.

346. After Pierre heard Golan tell Hilaire, in the presence of and about Abdoul Cisse, “have the fucking Black guy clean the bathroom,” Pierre feared that Golan would make discriminatory comments to or about him or about other Black workers in his presence.

**PLAINTIFF RAZACK SAMBORE**

347. Plaintiff Razack Sambore (“Sambore”) was born in Cote d’Ivoire (the Ivory Coast). He is Black.

348. Sambore worked at Westside Car Wash from approximately March 2016 through approximately June 2017.

349. Sambore typically worked 6 and 7 days a week, 9 to 14 hours a day, for approximately \$7.00 per hour.

350. At all relevant times, Golan was Sambore’s manager.

351. When Sambore started working at the Westside Car Wash, another African worker from Cote d’Ivoire told him that Golan did not like Black people.

352. Sambore heard Golan make discriminatory comments about African and Black workers on a regular basis.

353. Sambore heard Golan say “Fucking Africans” in reference to the African workers at the Westside Car Wash approximately 2 times a week from approximately March 2016 through approximately June 2017.

354. By way of example, Sambore heard Golan call one of his African co-workers, Abdoul Cisse, “Fucking African.”

355. Sambore heard Golan say “Fucking Blacks” in reference to the Black workers at the Westside Car Wash approximately 2 times a week from approximately March 2016 through approximately June 2017.

356. Sambore heard Golan say “Fucking nigger” in reference to the African workers at the Westside Car Wash approximately once a week from approximately March 2016 through approximately June 2017.
357. Sambore heard Golan say “African piece of shit” in reference to the African workers at the Westside Car Wash approximately 1-2 times a week from approximately March 2016 through approximately June 2017.
358. Sambore heard Golan say “Fucking stupid African” in reference to the African workers at the Westside Car Wash approximately 1-2 times a week from approximately March 2016 through approximately June 2017.
359. Sambore heard Golan say “Fucking Haitians” in reference to the Haitian workers at the Westside Car Wash approximately 3 times a month from approximately March 2016 through approximately June 2017.
360. By way of example, Sambore heard Golan say “Fucking Haitians” in reference to Jean Fresnel, who is Haitian.
361. Sambore heard Golan say “Black people are no good” in reference to the Black workers and Black customers at the Westside Car Wash approximately 3 times a month from approximately March 2016 through approximately June 2017.
362. Sambore heard Golan say “Black people smell” in reference to the Black workers at the Westside Car Wash approximately 3 times a month from approximately March 2016 through approximately June 2017.
363. Sambore saw that Golan would shake the hands of White and light-skinned Hispanic workers and customers but would not shake the hand of Black workers or customers.

364. Golan's discriminatory and demeaning treatment of Black customers contributed to the hostile work environment on the basis of race (African and Black) and color (Black) to which Sambore was subjected.

**PLAINTIFF ABDOULAYE COULIBALY**

365. Plaintiff Abdoulaye Coulibaly was born in Mali. He is Black.

366. Coulibaly worked at the Westside Car Wash from approximately 2011 through approximately December 31, 2016. Typically, he worked 12-hour shifts, six days a week.

367. At all relevant times, Golan was Coulibaly's manager.

368. Coulibaly heard Golan make discriminatory comments about African, Black and Haitian workers on a regular basis.

369. Coulibaly heard Golan say "Fucking Africans" in reference to the African workers at the Westside Car Wash at least once a week from approximately 2012 through approximately December 31, 2016.

370. Coulibaly heard Golan say "Fucking Blacks" in reference to the Black workers at the Westside Car Wash at least once a week from approximately 2012 through approximately December 31, 2016.

371. Coulibaly heard Golan say "Black piece of shit" in reference to the Black workers at the Westside Car Wash approximately 1-2 times a week from approximately 2012 through approximately December 31, 2016.

372. Coulibaly heard Golan say "Fucking nigger" in reference to the Black workers at the Westside Car Wash approximately 2 times a month from approximately 2012 through approximately December 31, 2016.

373. Coulibaly heard Golan say “I don’t like Africans” approximately 2 times a month from approximately 2012 through approximately December 31, 2016.
374. Coulibaly heard Golan say “I don’t like Blacks” approximately 2 times a month from approximately 2012 through approximately December 31, 2016.
375. Coulibaly heard Golan say “African people are stupid” approximately 2 times a month from approximately 2012 through approximately December 31, 2016.
376. Coulibaly heard Golan say “Black people are stupid” approximately 2 times a month from approximately 2012 through approximately December 31, 2016.
377. Coulibaly heard Golan say, “Fucking Black don’t know shit.”
378. Coulibaly heard Golan call Abdoul Cisse “Fucking African.”
379. Coulibaly heard Golan call Abdoul Cisse “Black piece of shit.”
380. Coulibaly heard Golan call Abdoul Cisse “Fucking nigger.”
381. When Coulibaly started working at the Westside Car Wash, Golan told him “Don’t touch me” when Coulibaly extended his hand to shake Golan’s hand.
382. Coulibaly saw Golan treat White customers better than Black customers.

**PLAINTIFF EDUARDO ESPINAL**

383. Plaintiff Eduardo Espinal was born in the Dominican Republic on December 28, 1979. He is a person of color.
384. Espinal worked at the Westside Car Wash from approximately August 2017 through approximately November 2018. Typically, he worked 14-hour shifts, seven days a week.
385. At all relevant times, Golan was Espinal’s manager.
386. Defendants subjected Espinal to a hostile work environment based on his perceived race (Black) and color (Black).

387. Golan called Espinal a “Fucking nigger” approximately 3 times a month from approximately August 2017 through approximately November 2018.
388. Golan called Espinal a “Fucking lazy nigger” approximately 3 times a month from approximately August 2017 through approximately November 2018.
389. Golan called Espinal a “Fucking Black” approximately 2 to 3 times a month from approximately August 2017 through approximately November 2018.
390. Golan called Espinal a “Black Piece of Shit” approximately twice a month from approximately August 2017 through approximately November 2018.
391. Golan called Espinal a “Stupid Black” at least once a month from approximately August 2017 through approximately November 2018.
392. Espinal heard Golan make discriminatory comments about Black and African workers at the Westside Car Wash on a regular basis.
393. Espinal heard Golan say “I don’t like Black people” approximately 4 to 5 times a week from approximately August 2017 through approximately November 2018.
394. Espinal heard Golan say “Fucking Blacks” in reference to Black workers at the Westside Car Wash approximately 4 to 5 times a week from approximately August 2017 through approximately November 2018.
395. Espinal heard Golan say “Fucking Black Piece of Shit” in reference to Black workers at the Westside Car Wash approximately 4 to 5 times a week from approximately August 2017 through approximately November 2018.
396. Espinal heard Golan say “Fucking Black Don’t Know Shit” in reference to Black workers at the Westside Car Wash approximately 3 times a week from approximately August 2017 through approximately November 2018.

397. Espinal heard Golan say “Stupid Black” in reference to Black workers at the Westside Car Wash approximately 3 to 4 times a week from approximately August 2017 through approximately November 2018.
398. Espinal heard Golan say “Fucking niggers” in reference to Black workers at the Westside Car Wash approximately 4 to 5 times a week from approximately August 2017 through approximately November 2018.
399. Espinal heard Golan tell one of his African co-workers, Abdoul Amine Cisse: “Fucking nigger go clean the bathroom” at least twice a week from approximately August 2017 through approximately November 2018.
400. In approximately February 2018, Espinal heard Golan call another one of his African co-workers, Fousseni Camara, “Fucking nigger” in an aggressive manner.
401. Espinal heard Golan say “Fucking lazy nigger” in reference to Black workers at the Westside Car Wash approximately 3 times a week from approximately August 2017 through approximately November 2018.
402. By way of example only, in approximately 2018 Espinal heard Golan say, “That fucking nigger isn’t working good” about a Black worker at the Westside Car Wash.
403. By way of example only, in approximately 2018, Espinal heard Golan say, “That Black piece of shit is no good” about a Black worker at the Westside Car Wash.
404. Espinal heard Golan say “Fucking Haitians” in reference to the Haitian workers at the Westside Car Wash.
405. Espinal saw that Golan treated White customers better than he treated Black customers.
406. For example, approximately 3 times a month Espinal heard Golan say “Fucking nigger” about a Black customer who questioned or complained about the service provided at the car

wash. In contrast, Espinal never heard Golan use a disparaging term about a White customer who questioned or complained about the service provided at the car wash.

407. Golan's discriminatory and demeaning treatment of Black customers contributed to the hostile work environment on the basis of race (African and Black) and color (Black) to which Espinal was subjected.

### **COMPLAINTS ABOUT RACIAL HARASSMENT**

408. In approximately 2014, when Golan called Fresnel "Fucking Haitian," Fresnel called his son, Freslin Fresnel, to tell his son what had occurred. Fresnel was crying when he told his son what Golan had called him. Fresnel's son told Fresnel that he should complain to the office about this. Fresnel gave his son the office number and asked his son to call Taub to complain on his behalf.

409. Freslin called the office and complained directly to Taub. Freslin told Taub that Golan called Fresnel "Fucking Haitian." Freslin told Taub that it was unacceptable for a manager to call an employee a "Fucking Haitian" or anything like that, and Freslin told Taub that it was bad for the business because an employee could go to the labor department. Freslin also told Taub that Fresnel had been working for the car wash for 25 years, and that they should not treat a 25-year employee like this.

410. Taub told Freslin to make sure his dad stayed calm and that he would try to schedule a meeting with Fresnel.

411. That day, Fresnel was called in to Underwest's corporate office in the Bronx. Once there, Fresnel complained to Taub and Winer about Golan. Fresnel told Taub and Winer that Golan was a racist who was mistreating him.

412. Taub told Fresnel that he was the only one who had a problem with Golan.

413. Fresnel told Taub and Winer that Golan was mistreating the other workers as well. Fresnel told Taub and Winer that the other workers were too scared to complain.
414. Taub and Winer did not ask Fresnel to identify any of the other workers that Golan was mistreating; they did not ask Fresnel why he believed Golan was a racist or what Golan had done or said to make Fresnel believe that he was a racist.
415. Fresnel reiterated that Golan was a racist and Taub responded that Golan could not be a racist. Neither Taub nor Winer asked Fresnel if any of the other workers believed Golan was a racist, nor did they ask Fresnel for any witnesses to any racist conduct or comments on the part of Golan. They simply denied that Golan was a racist.
416. The meeting ended, Fresnel left the room and Golan met with Taub and Winer.
417. Taub then called Fresnel into the room where Golan and Taub had been speaking and told Fresnel, in Golan's presence, that he had spoken to Golan and that everything will be "Ok."
418. Taub told Fresnel to apologize to Golan for calling him a racist.
419. Shocked, Fresnel said: "What? What did you say Martin?" Taub stayed silent.
420. The meeting ended and Fresnel returned to work.
421. Fresnel told a number of his co-workers, including but not limited to Jean Hilaire, Jean Morose, Youssouf Soukouna and Fousseni Camara, that he complained to Taub and Winer that Golan was a racist; that Taub denied that Golan was a racist; and that Taub told Fresnel to apologize to Golan for calling him a racist.
422. After this complaint to Taub and Winer, Golan continued to make racially offensive comments in the presence of Fresnel about 4 times a week through approximately March 2018.

423. In addition, Golan retaliated against Fresnel in response to his complaint to Taub and Winer that he was a racist by, among other things, removing him from his position working at the computer receiving the customer's requests for specific services and giving the customers their tickets, and assigning him the much more physically demanding job of brushing the cars with a brush.
424. Prior to his complaint, Fresnel had worked at the computer for approximately two years.
425. Golan replaced Fresnel with a new Hispanic worker who looked White.
426. Golan further retaliated against Fresnel in August 2018 by denying him one of his checks for vacation pay.
427. In approximately 2018, after Golan called Fresnel "Fucking ugly," " Fucking dumb," and " Fucking Idiot," Fresnel called his son, Freslin Fresnel, to tell his son what had occurred.
428. Freslin went to the Westside Car Wash to speak with Golan. When Freslin arrived at the car wash, Golan already had left.
429. Freslin called the main office, spoke with a woman and said that he wanted to speak with Taub about something relating to his father. Neither Taub nor anyone else from the Westside Car Wash ever called Freslin back.
430. After Freslin called the main office for the second time, Golan continued to make racially offensive comments about Black and African workers in the presence of Fresnel.
431. Fousseni Camara complained to Taub about Golan on two occasions.
432. In approximately 2013, after Golan physically assaulted Camara, Camara complained to Taub in person at the car wash. Camara told Taub that Golan pushed him and yelled at him, saying " Fucking nigger, fucking Black African guy, don't know shit, go home." Camara

complained to Taub that Golan was a racist. Camara told Taub that had Jean Hilaire not been there to catch him as he was falling, he could have been seriously injured.

433. Taub responded to Camara's complaint by saying that Golan was a "good guy." Taub told Camara: "Maybe you don't like Avi." Taub did not ask Camara if he knew of any witnesses to this incident and he did not tell him that he would do anything in response to this complaint.

434. One day in approximately March 2017, at approximately noon, Camara saw Taub standing at the back of the car wash. Camara approached Taub and told him: "We've been working together a long time and I want to tell you that Avi [Golan] is a racist."

435. Taub told Camara that Golan is not a racist and that Camara should not say that Golan is a racist.

436. Camara told Taub: "100% Avi is a racist." Camara repeated to Taub: "Avi is a racist."

437. Taub responded.; "No, no no, Avi is not a racist."

438. Camara told Taub about the racist comments that Golan had made, including: "Fucking Black people," "Fucking Haitian people," "Fucking African people," "You fucking lazy Black people," "You fucking lazy Haitian people," "Black people are stupid people," "Fucking stupid African," "African people are no good," "Black people are no good," "Haitian people are no good," "African people smell like shit," "and "Black people smell like shit."

439. Taub did not ask Camara if he knew of any other workers who heard any of these comments or felt that Golan was a racist.

440. Taub reiterated that Golan is not a racist and told Camara that maybe he just didn't like Golan.

441. Camara told Taub that he had been working with Taub for many years and that he always got along with everyone.

442. Taub said: "I know, but Avi is not a racist."

443. Taub did not tell Camara that he would investigate Camara's complaint, that he would speak with Golan or that he would do anything to ensure that Camara and other workers were not being subjected to discriminatory harassment.

444. Even after Camara complained to Taub about Golan's racially offensive comments, Golan continued to make these discriminatory comments on a regular basis to and in the presence of Camara and other Black workers.

445. On approximately three occasions in approximately 2017, Camara objected directly to Manager Golan about his racist comments to Black workers and customers. Twice in the Summer and once in the Fall of 2017, Camara told Manager Golan that he should not make racist comments. On one such occasion, Camara told Golan that they all come to the car wash to work together and that not everyone smells the same.

446. Camara told Golan, "It's no good" when Golan said that Black people smell like shit.

447. Golan told Camara: "If you don't like it, go home."

448. Boubacar Diawara complained directly to Taub that Golan was a racist.

449. One day in approximately June 2017, at approximately 2:30 p.m., Diawara complained to Taub at the entrance to the car wash. Diawara told Taub that Golan treated the workers badly and was "a big racist."

450. Taub got angry at Diawara and said: "I don't want to hear that anymore."

451. Taub walked away from Diawara and spoke with Golan. Diawara heard Taub tell Golan:

This guy just told me you treat people badly and you're a racist. Diawara heard Golan speaking to Taub but he could not understand the language Golan was speaking.

452. Taub walked back over to Diawara and fired him. Taub told Diawara: "Get out of here. I don't want to see you here anymore."

453. A few days later, Golan called Diawara and told him if he wanted to come back to work, he could. Diawara feared that if he returned to work, he would be retaliated against. He told Golan he would not come back.

454. Jean Hilaire objected to Golan's discriminatory conduct and comments on a number of occasions. Consistently, Golan rebuffed Hilaire's objections.

455. At around 10 a.m. one Thursday in approximately 2010, it was about to snow and Golan told Hilaire that he wanted to "make the Africans work hard today." Hilaire objected to this and asked Golan why he did not say he wanted to make all the workers work hard. Golan told Hilaire: "Why? You got a problem with that?" Hilaire responded: "Yes. It's not only Africans you got working over here." Golan answered: "I don't ask you for all that."

456. One day in approximately 2012, Golan said to Hilaire, who is Haitian and Black: "Do you know those fucking African people," referring to the African workers at the car wash. Hilaire said: "Yes, I know them. If you read Black history, you'll see that all Black people come from Africa and you'll never tell me this." Golan responded: "I don't ask you for all that. Don't be a fucking lawyer."

457. On another occasion in approximately November 2013, Hilaire complained to Winer about Golan. Hilaire told Winer that Golan threw a machine at Hilaire's back and injured him.

Winer responded “Oh my G-d, Avi, Avi, Avi, all the time Avi. I’m tired with him. You know what, Jean, call Martin [Taub].”

458. Shortly thereafter, Taub called Hilaire. Taub was angry with Hilaire because he complained to Winer directly about Golan.
459. In approximately 2014, Hilaire complained to Taub about Golan. Hilaire told Taub that Golan treats the workers very badly. Taub told Hilaire: “I don’t want to hear that. I think you and Fresnel don’t like Avi.”
460. In approximately March 2019, on the day that Taub and Winer came to the Westside Car Wash and informed the workers that they sold the property on which the car wash was located, and that the car wash would be closing, Winer held out the possibility that he could call his friends to see if other car wash owners needed workers.
461. Hilaire told Taub and Winer that once the West Side Car Wash closed, he was “done” with them because they treat people very badly. Hilaire told Taub that he knew that Taub was the one “behind the window” pushing Golan to treat the workers badly. Winer defended Taub, telling Hilaire that Taub was a “good guy.”
462. Youssouf Soukouna objected to Manager Golan’s racist comments on many occasions, telling him he should not be saying those things.
463. By way of example only, in approximately 2016, Soukouna heard Golan say, “Fucking nigger” and “Black piece of shit” about a Black worker. Soukouna told Golan: “Avi, the words you say are not nice. Don’t say that.” Golan replied: “I don’t give a shit.” Even after this objection, Soukouna continued to hear Golan make racist comments to and about Black workers and customers approximately 3 times a week.

464. On a number of occasions, Eduardo Espinal complained to Golan about the discriminatory way in which he spoke to him. On one such occasion, Espinal told Golan: “Don’t talk to me that way.” Golan stopped making discriminatory comments to Espinal for about a week and then resumed his practice of making discriminatory comments to Espinal on a regular basis.
465. Golan retaliated against Espinal in response to his complaints and objections to Golan’s discriminatory comments. On a number of occasions in 2017 and 2018, Golan cut Espinal’s hours by sending him home early after he complained to Golan about his discriminatory comments.
466. Espinal noticed a pattern: after he would complain to Golan about his discriminatory comments his hours would be cut.
467. The racism, harassment and retaliation Espinal experienced caused him to leave his job at the Westside Car Wash.
468. In approximately March 2018, after receiving all of these complaints about Golan’s discriminatory practices, Taub and Winer promoted Golan to the position of General Manager over all of the car washes they owned in New York and New Jersey, including the Westside Car Wash.

**FIRST CAUSE OF ACTION**  
**RACE DISCRIMINATION UNDER 42 U.S.C. §1981**

469. Plaintiffs repeat, re-allege and incorporate by reference the foregoing allegations as if set forth fully and again herein.
470. 42 U.S.C. § 1981 prohibits discrimination—including the fostering of a hostile work environment—against an employee because of the employee’s race.

471. As more fully set forth above, Defendants Underwest Westside Operating Corp., Underwest Management Corp., Martin Taub, Moshe Winer and Avi Golan subjected Plaintiffs to racial harassment and a hostile work environment on the basis of their race (African and/or Black).

472. Defendants Underwest Westside Operating Corp., Underwest Management Corp., Martin Taub, Moshe Winer and Avi Golan created, fostered, maintained, participated in, approved of, condoned, ratified and failed to prevent and correct the racial harassment and hostile work environment on the basis of their race (African and/or Black) to which Plaintiffs were subjected.

473. The racial harassment, discrimination and hostile work environment on the basis of race (African and/or Black) perpetrated against Plaintiffs were part of a pattern and practice of racial harassment, discrimination, and hostile work environment on the basis of race (African and/or Black) created, fostered, maintained, participated in, approved of, condoned and ratified by Defendants.

474. The racial harassment (African and/or Black) and hostile work environment on the basis of race (African and/or Black) perpetrated against Plaintiffs were intentional and willful in nature.

475. The racial harassment (African and/or Black) discrimination and hostile work environment on the basis of race (African and/or Black) perpetrated against Plaintiffs and others similarly situated were continuing in nature.

476. As a result of the foregoing, Plaintiffs have suffered and continue to suffer extensive physical, mental, emotional, and economic injuries.

477. Therefore, Plaintiffs are entitled to economic, compensatory, and punitive damages, along with attorneys' fees and costs.

**SECOND CAUSE OF ACTION**  
**RETALIATION UNDER 42 U.S.C. §1981**

478. Plaintiff Boubacar Diawara repeats, re-alleges and incorporates by reference the foregoing allegations as if set forth fully and again herein.

479. 42 U.S.C. § 1981 prohibits retaliation against an employee who complains about discrimination because the employee complained about discriminatory conduct or activity.

480. As set forth more fully set forth above, Defendants Underwest Westside Operating Corp., Underwest Management Corp., Taub and Golan, retaliated against Plaintiff Boubacar Diawara by firing him on the spot in direct response to his complaint to Taub that Golan was a racist.

481. The retaliation suffered by Plaintiff Diawara was a part of a pattern and practice of retaliation created and fostered by Defendants in which Plaintiffs who complained about and objected to Golan's discriminatory conduct and comments suffered retaliation in the form of, among other things, being sent home from work and having their hours cut.

482. As set forth more fully above, Defendants Underwest Westside Operating Corp., Underwest Management Corp., Taub, Winer and Golan participated in, approved of, condoned and ratified the retaliation perpetrated against Plaintiff Diawara.

483. As a result of the foregoing, Plaintiff Diawara has suffered and continues to suffer extensive physical, mental, emotional, and economic injuries.

484. Therefore, Plaintiff Diawara is entitled to economic, compensatory, and punitive damages, along with attorneys' fees and costs.

**THIRD CAUSE OF ACTION**

**DISCRIMINATION BASED ON RACE IN VIOLATION OF SECTION 8-107 OF TITLE  
8 OF THE NEW YORK CITY CHARTER AND ADMINISTRATIVE CODE  
("NYCHRL")**

485. Plaintiffs repeat, re-allege and incorporate by reference the foregoing allegations as if set forth fully and again herein.

486. The NYCHRL does not distinguish between claims of discrimination and harassment or hostile work environment, a term of art borrowed from the more restrictive Title VII jurisprudence.

487. The NYCHRL prohibits unequal treatment for a discriminatory purpose by an employer, regardless of whether the plaintiff pleads a hostile work environment, harassment, or other category of discrimination.

488. As set forth more fully above, Defendants Underwest Westside Operating Corp., Underwest Management Corp., Martin Taub, Moshe Winer and Avi Golan subjected Plaintiffs to discrimination on the basis of their actual or perceived race (African and/or Black).

489. As set forth more fully above, Defendants participated in, approved of, condoned and ratified the discriminatory practices perpetrated against Plaintiffs.

490. The discrimination that Defendants perpetrated against Plaintiffs was continuing and intentional in nature.

491. As a result of Defendants' discrimination Plaintiffs have suffered, and continue to suffer, inter alia, economic loss, pain and suffering, emotional distress, mental anguish, and other non-pecuniary losses, as to which they are entitled to past, present and future compensatory damages, in the maximum amount permitted by law.

492. Because Defendants acted with malice or reckless indifference to Plaintiffs' rights, Plaintiffs are entitled to punitive damages in an amount to be determined at trial, but not less than the maximum amount permitted by law.

**FOURTH CAUSE OF ACTION**

***AIDING, ABETTING AND INCITING – DISCRIMINATION BASED ON RACE IN VIOLATION OF SECTION 8-107 OF TITLE 8 OF THE NEW YORK CITY CHARTER AND ADMINISTRATIVE CODE***

493. Plaintiffs repeat, re-allege and incorporate by reference the foregoing allegations as if set forth fully and again herein.

494. As set forth more fully above, Defendants Underwest Management Corp., Martin Taub, Moshe Winer and Avi Golan aided, abetted, incited, compelled and/or coerced unlawful practices, including discriminating against Plaintiffs on the basis of their race (African and/or Black) and/or attempted to do so.

495. As a result, Plaintiffs have suffered, and continue to suffer, *inter alia*, economic loss, pain and suffering, emotional distress, mental anguish, and other non-pecuniary losses, as to which they are entitled to past, present and future compensatory damages, in the maximum amount permitted by law.

496. Because Defendants Underwest Management Corp., Martin Taub, Moshe Winer and Avi Golan acted with reckless indifference to Plaintiffs' rights, Plaintiffs are entitled to punitive damages in an amount to be determined at trial, but not less than the maximum amount permitted by law.

**FIFTH CAUSE OF ACTION**

**DISCRIMINATION BASED ON COLOR IN VIOLATION OF SECTION 8-107 OF  
TITLE 8 OF THE NEW YORK CITY CHARTER AND ADMINISTRATIVE CODE**

497. Plaintiffs repeat, re-allege and incorporate by reference the foregoing allegations as if set forth fully and again herein.
498. The NYCHRL does not distinguish between claims of discrimination and harassment or hostile work environment, a term of art borrowed from the more restrictive Title VII jurisprudence.
499. The NYCHRL prohibits unequal treatment for a discriminatory purpose by an employer, regardless of whether the plaintiff pleads a hostile work environment, harassment, or other category of discrimination.
500. As set forth more fully above, Defendants Underwest Westside Operating Corp., Underwest Management Corp., Martin Taub, Moshe Winer and Avi Golan subjected Plaintiffs to discrimination on the basis of their actual or perceived color.
501. As set forth more fully above, Defendants participated in, approved of, condoned and ratified the discriminatory practices perpetrated against Plaintiffs.
502. The discrimination that Defendants perpetrated against Plaintiffs was continuing and intentional in nature.
503. As a result of Defendants' discrimination Plaintiffs have suffered, and continue to suffer, inter alia, economic loss, pain and suffering, emotional distress, mental anguish, and other non-pecuniary losses, as to which they are entitled to past, present and future compensatory damages, in the maximum amount permitted by law.
504. Because Defendants acted with malice or reckless indifference to Plaintiffs' rights, Plaintiffs are entitled to punitive damages in an amount to be determined at trial, but not less than the maximum amount permitted by law.

**SIXTH CAUSE OF ACTION**

**AIDING, ABETTING AND INCITING – DISCRIMINATION BASED ON COLOR IN  
VIOLATION OF SECTION 8-107 OF TITLE 8 OF THE NEW YORK CITY  
CHARTER AND ADMINISTRATIVE CODE**

505. Plaintiffs repeat, re-allege and incorporate by reference the foregoing allegations as if set forth fully and again herein.

506. As set forth more fully above, Defendants Underwest Management Corp., Martin Taub, Moshe Winer and Avi Golan aided, abetted, incited, compelled and/or coerced unlawful practices, including discriminating against Plaintiffs on the basis of their color and/or attempted to do so.

507. As a result, Plaintiffs have suffered, and continue to suffer, *inter alia*, economic loss, pain and suffering, emotional distress, mental anguish, and other non-pecuniary losses, as to which they are entitled to past, present and future compensatory damages, in the maximum amount permitted by law.

508. Because Defendants Underwest Management Corp., Martin Taub, Moshe Winer and Avi Golan acted with reckless indifference to Plaintiffs' rights, Plaintiffs are entitled to punitive damages in an amount to be determined at trial, but not less than the maximum amount permitted by law.

**SEVENTH CAUSE OF ACTION**

**DISCRIMINATION BASED ON NATIONAL ORIGIN IN VIOLATION OF SECTION 8-  
107 OF TITLE 8 OF THE NEW YORK CITY CHARTER AND ADMINISTRATIVE  
CODE**

509. Plaintiffs Jean Fresnel, Jean Hilaire and Jean Morose repeat, re-allege and incorporate by reference the foregoing allegations as if set forth fully and again herein.

510. The NYCHRL does not distinguish between claims of discrimination and harassment or hostile work environment, a term of art borrowed from the more restrictive Title VII jurisprudence.

511. The NYCHRL prohibits unequal treatment for a discriminatory purpose by an employer, regardless of whether the plaintiff pleads a hostile work environment, harassment, or other category of discrimination.

512. As set forth more fully above, Defendants Underwest Westside Operating Corp., Underwest Management Corp., Martin Taub, Moshe Winer and Avi Golan subjected Plaintiffs Jean Fresnel, Jean Hilaire and Jean Morose, to discrimination on the basis of their national origin (Haitian).

513. As set forth more fully above, Defendants participated in, approved of, condoned and ratified the discriminatory practices perpetrated against Plaintiffs Fresnel, Hilaire and Morose.

514. The discrimination that Defendants perpetrated against Plaintiffs Fresnel, Hilaire and Morose was continuing and intentional in nature.

515. As a result of Defendants' discrimination, Plaintiffs Fresnel, Hilaire and Morose have suffered, and continue to suffer, inter alia, economic loss, pain and suffering, emotional distress, mental anguish, and other non-pecuniary losses, as to which they are entitled to past, present and future compensatory damages, in the maximum amount permitted by law.

516. Because Defendants acted with malice or reckless indifference to Plaintiffs Fresnel's, Hilaire's and Morose's rights, Plaintiffs Fresnel, Hilaire and Morose are entitled to punitive damages in an amount to be determined at trial, but not less than the maximum amount permitted by law.

**EIGHT CAUSE OF ACTION**

**AIDING, ABETTING AND INCITING – DISCRIMINATION BASED ON NATIONAL ORIGIN IN VIOLATION OF SECTION 8-107 OF TITLE 8 OF THE NEW YORK CITY CHARTER AND ADMINISTRATIVE CODE**

517. Plaintiffs Jean Fresnel, Jean Hilaire and Jean Morose repeat, re-allege and incorporate by reference the foregoing allegations as if set forth fully and again herein.
518. As set forth more fully above, Defendants Underwest Management Corp., Martin Taub, Moshe Winer and Avi Golan aided, abetted, incited, compelled and/or coerced unlawful practices, including discriminating against Plaintiffs Fresnel, Hilaire and Morose on the basis of their national origin (Haitian) and/or attempted to do so.
519. As a result, Plaintiffs Fresnel, Hilaire and Morose have suffered, and continue to suffer, inter alia, economic loss, pain and suffering, emotional distress, mental anguish, and other non-pecuniary losses, as to which they are entitled to past, present and future compensatory damages, in the maximum amount permitted by law.
520. Because Defendants Underwest Management Corp., Martin Taub, Moshe Winer and Avi Golan acted with reckless indifference to Plaintiffs Fresnel's, Hilaire's and Morose's rights, Plaintiffs Fresnel, Hilaire and Morose are entitled to punitive damages in an amount to be determined at trial, but not less than the maximum amount permitted by law.

**NINTH CAUSE OF ACTION**

**DISCRIMINATION BASED ON AGE IN VIOLATION OF SECTION 8-107 OF TITLE 8 OF THE NEW YORK CITY CHARTER AND ADMINISTRATIVE CODE**

521. Plaintiff Dansoko Diaguely repeats, re-alleges and incorporates by reference the foregoing allegations as if set forth fully and again herein.
522. The NYCHRL does not distinguish between claims of discrimination and harassment or hostile work environment, a term of art borrowed from the more restrictive Title VII jurisprudence.

523. The NYCHRL prohibits unequal treatment for a discriminatory purpose by an employer, regardless of whether the plaintiff pleads a hostile work environment, harassment, or other category of discrimination.
524. As set forth more fully above, Defendants Underwest Westside Operating Corp., Underwest Management Corp., Martin Taub, Moshe Winer and Avi Golan subjected Plaintiff Dansoko Diaguely to discrimination on the basis of his age.
525. As set forth more fully above, Defendants participated in, approved of, condoned and ratified the discriminatory practices perpetrated against Plaintiff Dansoko Diaguely.
526. The discrimination that Defendants perpetrated against Plaintiff Dansoko Diaguely was continuing and intentional in nature.
527. As a result of Defendants' discrimination, Plaintiff Dansoko Diaguely has suffered, and continues to suffer, *inter alia*, pain and suffering, emotional distress, mental anguish, and other non-pecuniary losses, as to which he is entitled to past, present and future compensatory damages, in the maximum amount permitted by law.
528. Because Defendants acted with malice or reckless indifference to Plaintiff Dansoko Diaguely's rights, Plaintiff Dansoko Diaguely is entitled to punitive damages in an amount to be determined at trial, but not less than the maximum amount permitted by law.

**TENTH CAUSE OF ACTION**  
***AIDING, ABETTING AND INCITING – DISCRIMINATION BASED ON AGE IN  
VIOLATION OF SECTION 8-107 OF TITLE 8 OF THE NEW YORK CITY  
CHARTER AND ADMINISTRATIVE CODE***

529. Plaintiff Dansoko Diaguely repeats, re-alleges and incorporates by reference the foregoing allegations as if set forth fully and again herein.
530. As set forth more fully above, Defendants Underwest Management Corp., Martin Taub, Moshe Winer and Avi Golan aided, abetted, incited, compelled and/or coerced unlawful

practices, including discriminating against Plaintiff Dansoko Diaguely on the basis of his age and/or attempted to do so.

531. As a result, Plaintiff Dansoko Diaguely has suffered, and continues to suffer, *inter alia*, pain and suffering, emotional distress, mental anguish, and other non-pecuniary losses, as to which he is entitled to past, present and future compensatory damages, in the maximum amount permitted by law.
532. Because Defendants Underwest Management Corp., Martin Taub, Moshe Winer and Avi Golan acted with reckless indifference to Plaintiff Diaguely's rights, Plaintiff Dansoko Diaguely is entitled to punitive damages in an amount to be determined at trial, but not less than the maximum amount permitted by law.

**ELEVENTH CAUSE OF ACTION**  
**RETALIATION UNDER SECTION 8-107 OF TITLE 8 OF THE NEW YORK CITY  
CHARTER AND ADMINISTRATIVE CODE**

533. Plaintiff Eduardo Espinal repeats, re-alleges and incorporates by reference the foregoing allegations as if set forth fully and again herein.
534. The New York City Human Rights Law prohibits retaliation against an employee who opposes an unlawful discriminatory practice.
535. As set forth more fully set forth above, Defendants Underwest Westside Operating Corp., Underwest Management Corp., Taub and Golan, retaliated against Plaintiff Eduardo Espinal by cutting his hours and sending him home early in direct response to his opposition to Golan's discriminatory practices.
536. The retaliation suffered by Plaintiff Espinal was a part of a pattern and practice of retaliation created and fostered by Defendants in which Plaintiffs, including but not limited to Eduardo Espinal, who complained about objected to Golan's discriminatory conduct and

comments suffered retaliation in the form of, among other things, being sent home from work and having their hours cut.

537. As set forth more fully above, Defendants Underwest Westside Operating Corp., Underwest Management Corp., Taub and Golan participated in, approved of, condoned and ratified the retaliation perpetrated against Plaintiff Espinal.
538. As a result of the foregoing, Plaintiff Espinal has suffered physical, mental, emotional, and economic injuries.
539. Therefore, Plaintiff Espinal is entitled to economic, compensatory, and punitive damages, along with attorneys' fees and costs.

**DEMAND FOR TRIAL BY JURY**

540. Plaintiffs request a jury trial on all issues of fact and damages arising herein.

**PRAYER FOR RELIEF**

WHEREFORE, respectfully request that this Court grant the following relief:

- A. Declare and adjudge that Defendants Underwest Westside Operating Corp., Underwest Management Corp., Martin Taub, Moshe Winer and Avi Golan unlawfully subjected Plaintiffs to discrimination and harassment on the basis of race (African and Black), in violation of 42 U.S.C. § 1981;
- B. Declare and adjudge that Defendants Underwest Westside Operating Corp., Underwest Management Corp., Martin Taub, Moshe Winer and Avi Golan unlawfully subjected Plaintiff Boubacar Diawara to retaliation in violation of 42 U.S.C. § 1981;
- C. Declare and adjudge that Defendants Underwest Westside Operating Corp.,

Underwest Management Corp., Martin Taub, Moshe Winer and Avi Golan unlawfully subjected Plaintiffs to discrimination and harassment on the basis of actual or perceived race (African and Black), in violation of Section 8-107 of Title 8 of the New York City Charter and Administrative Code;

- D. Declare and adjudge that Defendants Underwest Westside Operating Corp., Underwest Management Corp., Martin Taub, Moshe Winer and Avi Golan unlawfully subjected Plaintiffs to discrimination and harassment on the basis of color (Black) in violation of Section 8-107 of Title 8 of the New York City Charter and Administrative Code;
- E. Declare and adjudge that Defendants Underwest Westside Operating Corp., Underwest Management Corp., Martin Taub, Moshe Winer and Avi Golan unlawfully subjected Plaintiffs Jean Fresnel, Jean Hilaire and Jean Morose to discrimination and harassment on the basis of their national origin (Haitian), in violation of Section 8-107 of Title 8 of the New York City Charter and Administrative Code;
- F. Declare and adjudge that Defendants Underwest Westside Operating Corp., Underwest Management Corp., Martin Taub, Moshe Winer and Avi Golan unlawfully subjected Plaintiff Dansoko Diaguely to discrimination and harassment on the basis of age in violation of Section 8-107 of Title 8 of the New York City Charter and Administrative Code;
- G. Find that Defendants Martin Taub, Moshe Winer and Avi Golan are individually liable under 42 U.S.C. §1981;
- H. Find that Defendants Underwest Management Corp., Martin Taub, Moshe

Winer and Avi Golan are liable for aiding, abetting, inciting or coercing violations of the New York City anti-discrimination laws;

- I. Declare and adjudge that Defendants Underwest Westside Operating Corp., Underwest Management Corp., Martin Taub, Moshe Winer and Avi Golan unlawfully subjected Plaintiff Edward Espinal Boubacar to retaliation in violation of the New York City Charter and Administrative Code;
- J. Award Plaintiffs past, present and future compensatory damages, in an amount to be determined at trial;
- K. Award Plaintiffs punitive damages in an amount to be determined at trial;
- L. Award pre-judgment and post-judgment interest at the appropriate legal rate;
- M. Award Plaintiffs attorneys' fees and costs; and
- N. Provide such other and further relief as is just and proper.

Dated: New York, New York  
December 10, 2020

Respectfully submitted,

**ARENSON, DITTMAR & KARBAN**

/s/  
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